COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, SEPTEMBER 7, 1999

APPLICATION OF

RESTON LAKE ANNE AIR CONDITIONING CORPORATION — CASE NO. PUE980139

For an increase in rates

FINAL ORDER

On April 22, 1998, Reston Lake Anne Air Conditioning Corporation ("RELAC" or "the Company") filed an application requesting an increase in its rates for metered service effective for service rendered on and after May 22, 1998. The Company requests an increase of $28,332 in total annual revenues, or an increase of approximately 60 percent to the metered customers. The Company proposes no rate increase for its flat rate service. The Company proposes to increase the minimum charge[1] per billing period[2] for metered customers from $27.00 to $54.00; to increase its usage charge for the first 10,000 gallons used per billing period from $5.60 to $8.96; and to increase its usage charge for each 1,000 gallons or portion

[1] The minimum charge would be payable regardless of usage but would be credited against actual usage.

[2] The metered rate schedule provides for four billing periods per cooling season, which is from May 22 through October 9.

thereof in excess of 10,000 gallons per billing period from $2.80 to $4.48.

By order dated May 1, 1998, the Commission directed the Company to provide notice to its customers of its application, scheduled the matter for hearing on October 22, 1998, and established a procedural schedule for the filing of pleadings, testimony, and exhibits.

On July 14, 1998, Fairfax County filed a motion to move the venue of the hearing to that County in order to accommodate the concerns of affected customers who would not otherwise be able to participate. By ruling dated July 28, 1998, that motion was granted in part, and a public hearing was scheduled for October 1, 1998, in Fairfax County for the purpose of hearing from public witnesses only, with the rest of the hearing scheduled for October 22, 1998.

Eight customers appeared at the October 1 hearing and opposed the proposed increase on the basis that such increase was applied only to metered customers. Many interpreted the increase as an attempt to force metered users to switch to the fixed rate, and some alleged that application of the increase would actually encourage the wasteful use of energy. Several witnesses noted that restrictive covenants bar the use of alternative air conditioning provisions and requested that the

Commission declare RELAC customers free to choose such alternative means.[3]

On October 22, 1998, an evidentiary hearing was convened in Richmond before Chief Hearing Examiner Deborah V. Ellenberg. Counsel appearing were: Paul B. Ward, Esquire, for the Company; Marta B. Curtis, Esquire, and Allison L. Held, Esquire, for the Commission's Staff; Dennis R. Bates, Esquire, for the Fairfax County Board of Supervisors; and Monroe E. Freeman, Jr., pro se. There was also an additional public witness who appeared at this hearing and opposed the proposed rate increase.

At the commencement of the hearing, the Company offered the required proofs of notice. The Company and Fairfax County subsequently filed post-hearing briefs.

Accounting adjustments and rate design were at issue at the hearing. The Company objected to Staff's accounting adjustments increasing revenue and disallowing rent and employee benefits expenses. It was the Company's position that its revenue should be based on the average occupancy for the test period rather than on the customer base at the end of the test period, as proposed by Staff.

The Company also objected to Staff's disallowance of rent expense paid to the owners of RELAC for the land on which the

[3] Restrictive covenants require a two-thirds vote of all customers to release RELAC customers from their obligation to purchase air conditioning from RELAC.

utility is located. It was Staff and Fairfax County's position[4] that the Company had not met its burden of proof for recovery of the rent expense based on their belief that the owners of the Company had obtained that land at no cost. The Company, however, believed that it had met its burden and that the owners were entitled to earn a return on the value of such land since they had incurred cost for its acquisition[5]. As an alternative to allowing recovery of such cost as an expense, Staff suggested that the land be included in the utility's rate base at its 1983 assessed value for ratemaking purposes only.

In addition, the Company objected to Staff's disallowance of copayments paid for employees' prescription drugs. It was the Company's position that, although such costs were not covered by the Company's medical plan, reimbursement of such costs was a reasonable employee benefit.

Staff and Fairfax County supported the allocation of the proposed increase to the metered class since the current rates were not producing enough revenue to cover those customers' fixed costs. Mr. Freeman questioned the basis for such

[4] On brief, Fairfax County supported Staff's position.

[5] Mr. Cobb argued that he and Mrs. Cobb gave up $175,000 in cash to have the land included in the purchase of the Company from its former owner.

allocation[6] and urged the Commission to dismiss the application. He stated that, in future applications, the cost allocation should be based on the ratio of actual gallons used by the metered class to the total gallons produced by the RELAC plant.

Staff supported Fairfax County's proposal to phase in any increase in rates over three years. The Company subsequently agreed with that approach.

On July 16, 1999, the Hearing Examiner issued her Report. In her Report, the Examiner found that:

1. The use of a test year ending December 30, 1997, is proper in this proceeding;

2. The Company's test year operating revenues, after all adjustments, were $300,775;

3. The Company's test year operating deductions, after all adjustments, were $298,932;

4. The Company's test year operating income, after all adjustments, was $1,843;

5. The Company's adjusted test period rate base, including the leased property, is $290,042;

6. The Company's current rates produce a return on adjusted rate base of 0.64%;

[6] The Company's allocation was based on the Company's use of a total British Thermal Units per Hour ("BTUH") load schedule assigning a BTUH load to each unit. The calculation is a measure of the BTUs absorbed by a residence during one hour of a typical air conditioning season.

7. The Company requires an increase in gross annual revenues of $22,411;

8. The increase would provide the Company an opportunity to generate a return on rate base of 8.20% when fully implemented; and

9. The Company should file permanent rates designed to produce the additional revenues phased in over a three year period as it agreed to and as found reasonable in her Report.

The Examiner recommended that the Commission enter an order that adopts the findings in her Report; increases the Company's authorized gross annual revenues by $22,411; and directs the refund of any amounts collected under the interim rates in excess of the rate increase found just and reasonable in her Report.

In her discussion of the issues in controversy, the Examiner agreed that Staff's adjustments to revenues and employee benefits were reasonable. The Examiner disagreed with Staff and Fairfax County's position regarding the Company's rent expense. The Examiner found evidence in the record to support the conclusion that the owners of the utility incurred costs for the acquisition of the land upon which the utility plant is fixed. The Examiner, however, found it reasonable to accept Staff's alternative proposal for rate base treatment of such costs since that proposal recognizes the value of the land but does not guarantee a return on that asset. In accepting Fairfax County and Staff's proposed rate design, the Examiner stated that it would be preferable to allocate costs based on actual usage, as Mr. Freeman suggested, but noted that such data was not available in the record in this proceeding. The Examiner recommended that the Company be directed to provide actual gallon usage to support any future applications. The Examiner noted that the issue regarding the alternative provision of air conditioning was not before the Commission and that the remedy for seeking such provision had already been established pursuant to the restrictive covenants of the development.

On July 28, 1999, Protestant Monroe E. Freeman, Jr., filed comments on the Examiner's Report. In his comments, Mr. Freeman noted the lack of data for determining rate design by his recommended methodology but stated that such insufficiency was the result of RELAC's choice not to meter total production. Mr. Freeman renewed his request that the Commission dismiss or deny the application. He also requested that, in addition to adopting the Examiner's recommendation concerning actual gallon usage in any future applications, the Commission direct the Company to install metering devices to record such usage beginning with the year 2000 cooling season.

On August 5, 1999, the Company filed its comments. RELAC took issue with the Examiner's recommendation that the Company be directed to provide actual gallon usage in future applications. The Company stated that such a requirement was impractical due to the design and installation of the air conditioning system. Specifically, the Company stated that providing actual gallon usage for each class of customers requires that all of its non-metered customers be provided with meters and balancing cocks identical to those installed for metered customers. The cost of such metering would be prohibitive because meters and balancing cocks comprise only a part of the cost of installation. The Company estimated that the total cost of such metering could exceed $500,000 as such cost would include the cost of meters and balancing cocks as well as the cost of repiping the LARAC condominiums and the commercial customers.

On August 9, 1999, Fairfax County filed comments on the Examiner's Report. The County requested that the Commission adopt the findings and recommendations detailed in that Report with specific reference to those associated with rate design and the provision of actual gallon usage.

NOW THE COMMISSION, having considered the record, the Examiner's Report, and the comments thereto, is of the opinion that the Examiner's findings and recommendations should be approved with the exception of that noted herein. While we believe that there is merit in the Examiner's recommendation regarding actual usage information, we will not adopt that recommendation in this proceeding. We agree with the Company that such recommendation is unwarranted here due to the unique design and installation characteristics of the RELAC system and the cost of making the necessary changes. Accordingly,

IT IS ORDERED THAT:

(1) The findings and recommendations of the Hearing Examiner hereby are adopted with the exception of that noted herein.

(2) Consistent with the findings herein, the Company shall file revised tariffs designed to produce $22,411 in additional gross annual revenues phased in over a three year period as detailed in the Examiner's Report.

(3) On or before October 15, 1999, RELAC shall complete the refund, with interest as directed below, of all revenues collected from the application of the interim rates that became effective for service rendered on and after May 22, 1998, to the extent those rates produced revenues that exceed the revenues authorized for the year 1999 (Phase I of the authorized increase).

(4) Interest upon the refunds ordered above shall be computed from the date payment is due for each billing period during which the interim rates were in effect and subject to refund until the date the refunds are made, at an average prime

rate for each calendar quarter. The applicable average prime rate shall be the arithmetic mean, to the nearest one-hundredth of one percent, of the prime rate values published in the Federal Reserve Bulletin or in the Federal Reserve's "Selected Interest Rates" (Statistical Release G.13) for the three months of the preceding calendar quarter.

(5) Interest required to be paid shall be compounded quarterly.

(6) Refunds ordered herein may be made by credit to the appropriate customer's account for current customers. Refunds to former customers shall be made by check to the last known address of such customers when the amount due exceeds $1.00. RELAC may retain refunds owed that do not exceed $1.00, provided that the Company maintains a list detailing each of the former accounts for which such refund is owed; and in the event that such former customers request refunds, the same shall be promptly made.

(7) On or before November 15, 1999, RELAC shall submit to the Divisions of Energy Regulation and Public Utility Accounting a report showing that all refunds have been lawfully made pursuant to this Order and itemizing all costs of the refund. The itemization of costs shall include, inter alia, computer costs, man-hours, associated salaries, costs for verifying and

correcting the refund methodology, and the costs associated with any computer programming required to make the refunds.

(8) The Company shall bear all costs of the refund.

(9) Since there is nothing further to come before the Commission, this case shall be dismissed from the Commission's docket of active cases.